

count the award as an award to an SDVO SBC and the concern cannot submit another offer as an SDVO SBC on a future SDVO SBC procurement unless it overcomes the reasons for the protest (e.g., it changes its ownership to satisfy the definition of an SDVO SBC set forth in § 125.8).

[70 FR 14528, Mar. 23, 2005]

**§ 125.28 What are the procedures for appealing an SDVO status protest?**

The protested concern, the protester, or the contracting officer may file an appeal of an SDVO status protest determination with OHA in accordance with part 134 of this chapter. If the contract has already been awarded and on appeal, the OHA Judge affirms that the SDVO SBC does not meet a status or ownership and control requirement set forth in these regulations, then the procuring agency cannot count the award as an award to a SDVO SBC. In addition, the protested concern cannot self-represent its status for another procurement until it has cured the eligibility issue. If a contract has not yet been awarded and on appeal the OHA Judge affirms that the protested concern does not meet the status or ownership and control requirement set forth in this part, then the protested concern is ineligible for an SDVO SBC contract award.

[70 FR 14528, Mar. 23, 2005]

**Subpart E—Penalties and Retention of Records**

SOURCE: 69 FR 25270, May 5, 2004, unless otherwise noted.

**§ 125.29 What penalties may be imposed under this part?**

(a) *Suspension or debarment.* The Agency debarring official may suspend or debar a person or concern pursuant to the procedures set forth in part 145 of this chapter. The contracting agency debarring official may debar or suspend a person or concern under the Federal Acquisition Regulation, 48 CFR Part 9, subpart 9.4.

(b) *Civil penalties.* Persons or concerns are subject to severe civil penalties under the False Claims Act, 31 U.S.C. 3729–3733, and under the Program Fraud

Civil Remedies Act, 331 U.S.C. 3801–3812, and any other applicable laws.

(c) *Criminal penalties.* Persons or concerns are subject to severe criminal penalties for knowingly misrepresenting the SDVO status of a SBC in connection with procurement programs pursuant to section 16 of the Small Business Act, 15 U.S.C. 645, as amended; 18 U.S.C. 1001; and 31 U.S.C. 3729–3733. Persons or concerns also are subject to criminal penalties for knowingly making false statements or misrepresentations to SBA for the purpose of influencing any actions of SBA pursuant to section 16(a) of the Small Business Act, 15 U.S.C. 645(a), as amended, including failure to correct “continuing representations” that are no longer true.

**PART 126—HUBZONE PROGRAM**

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## Subpart I—Penalties

126.900 What penalties may be imposed under this part?

AUTHORITY: 15 U.S.C. 632(a), 632(j), 632(p) and 657a.

SOURCE: 63 FR 31908, June 11, 1998, unless otherwise noted.

## Subpart A—Provisions of General Applicability

**§ 126.100 What is the purpose of the HUBZone program?**

The purpose of the HUBZone program is to provide federal contracting assistance for qualified SBCs located in historically underutilized business zones in an effort to increase employment opportunities, investment, and economic development in such areas.

**§ 126.101 Which government departments or agencies are affected directly by the HUBZone program?**

(a) The HUBZone Program applies to all federal departments or agencies that employ one or more contracting officers.

(b) The HUBZone program does not apply to contracts awarded by state and local governments. However, state and local governments may use the List of qualified HUBZone SBCs to identify qualified HUBZone SBCs for similar programs authorized under state or local law.

[63 FR 31908, June 11, 1998, as amended at 66 FR 4645, Jan. 18, 2001; 69 FR 29420, May 24, 2004]

**§ 126.102 What is the effect of the HUBZone program on the section 8(d) subcontracting program?**

The HUBZone Act of 1997 amended the section 8(d) subcontracting program to include qualified HUBZone SBCs in the formal subcontracting plans described in § 125.3 of this title.

**§ 126.103 What definitions are important in the HUBZone program?**

*Administrator* means the Administrator of the United States Small Business Administration (SBA).

*AA/BD* means SBA's Associate Administrator for the Office of Business Development.

*AA/HUB* means SBA's Associate Administrator for the HUBZone Program.

*ADA/GC&BD* means SBA's Associate Deputy Administrator for Government Contracting and Business Development.

*ADA/GC&8(a)BD* means SBA's Associate Deputy Administrator for Government Contracting and 8(a) Business Development.

*Agricultural commodity* has the same meaning as in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

*Alaska Native Corporation (ANC)* has the same meaning as the term "Native Corporation" in section 3 of the ANCSA, 43 U.S.C. 1602.

*Alaska Native Village* has the same meaning as the term "Native village" in section 3 of the ANCSA, 43 U.S.C. 1602.

*ANCSA* means the Alaska Native Claims Settlement Act, as amended.

*Attempt to maintain* means making substantive and documented efforts such as written offers of employment, published advertisements seeking employees, and attendance at job fairs.

*Base closure* area means lands within the external boundaries of a military installation that were closed through a privatization process under the authority of:

(1) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of division B of Public Law 101-510; 10 U.S.C. 2687 note);

(2) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Pub. L. 100-526; 10 U.S.C. 2687 note);

(3) 10 U.S.C. 2687; or

(4) Any other provision of law authorizing or directing the Secretary of Defense or the Secretary of a military department to dispose of real property at the military installation for purposes relating to base closures or redevelopment, while retaining the authority to enter into a leaseback of all or a portion of the property for military use.

*Certify* means the process by which SBA determines that a HUBZone SBC is qualified for the HUBZone program and entitled to be included in SBA's "List of Qualified HUBZone SBCs."